

§ 1.68

or in Commission proceedings involving a pending application. Except where paragraph (b) of this section applies, whenever the information furnished in the pending application is no longer substantially accurate and complete in all significant respects, the applicant shall as promptly as possible and in any event within 30 days, unless good cause is shown, amend or request the amendment of his application so as to furnish such additional or corrected information as may be appropriate. Except where paragraph (b) of this section applies, whenever there has been a substantial change as to any other matter which may be of decisional significance in a Commission proceeding involving the pending application, the applicant shall as promptly as possible and in any event within 30 days, unless good cause is shown, submit a statement furnishing such additional or corrected information as may be appropriate, which shall be served upon parties of record in accordance with §1.47. Where the matter is before any court for review, statements and requests to amend shall in addition be served upon the Commission's General Counsel. For the purposes of this section, an application is "pending" before the Commission from the time it is accepted for filing by the Commission until a Commission grant or denial of the application is no longer subject to reconsideration by the Commission or to review by any court.

(b) Changes in information relating to §1.1622, lottery preferences, must be furnished to the Commission no more than 7 days after the changes occur until: (1) In the case of a non-mutually exclusive application, the Commission releases the Public Notice proposing the application for grant; or (2) in the case of a mutually exclusive application, the Commission releases the final Public Notice announcing the acceptance of the last-filed mutually exclusive application.

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§ 1.68 Action on application for license to cover construction permit.

(a) An application for license by the lawful holder of a construction permit will be granted without hearing where the Commission, upon examination of such application, finds that all the terms, conditions, and obligations set forth in the application and permit have been fully met, and that no cause or circumstance arising or first coming to the knowledge of the Commission since the granting of the permit would, in the judgment of the Commission, make the operation of such station against the public interest.

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(b) In the event the Commission is unable to make the findings in paragraph (a) of this section, the Commission will designate the application for hearing upon specified issues.

(Sec. 319, 48 Stat. 1089, as amended; 47 U.S.C. 319)

§ 1.77 Detailed application procedures; cross references.

The application procedures set forth in §§1.61 through 1.68 are general in nature. More detailed procedures are set forth in this chapter as follows:

(a) Rules governing applications for authorizations in the Broadcast Radio Services are set forth in subpart D of this part.

(b) Rules governing applications for authorizations in the Common Carrier Radio Services are set forth in subpart E of this part.

(c) Rules governing applications for authorizations in the Private Radio Services are set forth in subpart F of this part.

(d) Rules governing applications for authorizations in the Experimental Radio Services (other than broadcast) are set forth in part 5 of this chapter.

(e) Rules governing applications for authorizations in the Domestic Public Radio Services are set forth in part 21 of this chapter.

(f) Rules governing applications for authorizations in the Industrial, Scientific, and Medical Service are set forth in part 18 of this chapter.

(g) Rules governing applications for certification of equipment are set forth in part 2, subpart J, of this chapter.

(h) Rules governing applications for commercial radio operator licenses are set forth in part 13 of this chapter.

(i) Rules governing applications for authorizations in the Common Carrier and Private Radio terrestrial microwave services and Local Multipoint Distribution Services are set out in part 101 of this chapter.

[28 FR 12415, Nov. 22, 1963, as amended at 44 FR 39180, July 5, 1979; 47 FR 53378, Nov. 26, 1982; 61 FR 26670, May 28, 1996; 62 FR 23162, Apr. 29, 1997; 63 FR 36596, July 7, 1998]

EFFECTIVE DATE NOTE: At 63 FR 36596, July 7, 1998, in §1.77, paragraph (g) was amended by removing the term *type approval and type*

acceptance and adding in its place *certification*, and removing the reference to “subpart F” and adding in its place “subpart J”, effective Oct. 5, 1998.

MISCELLANEOUS PROCEEDINGS

§ 1.80 Forfeiture proceedings.

(a) *Persons against whom and violations for which a forfeiture may be assessed.* A forfeiture penalty may be assessed against any person found to have:

(1) Willfully or repeatedly failed to comply substantially with the terms and conditions of any license, permit, certificate, or other instrument of authorization issued by the Commission;

(2) Willfully or repeatedly failed to comply with any of the provisions of the Communications Act of 1934, as amended; or of any rule, regulation or order issued by the Commission under that Act or under any treaty, convention, or other agreement to which the United States is a party and which is binding on the United States;

(3) Violated any provision of section 317(c) or 508(a) of the Communications Act; or

(4) Violated any provision of section 1304, 1343, or 1464 of Title 18, United States Code.

A forfeiture penalty assessed under this section is in addition to any other penalty provided for by the Communications Act, except that the penalties provided for in paragraphs (b)(1), (b)(2) and (b)(3) of this section shall not apply to conduct which is subject to a forfeiture penalty under sections 202(c), 203(e), 205(b), 214(d), 219(b), 220(d), 223(b), 362(a), 362(b), 386(a), 386(b), 503(b), 506, and 634 of the Communications Act. The remaining provisions of this section are applicable to such conduct.

(b) *Limits on the amount of forfeiture assessed.* (1) If the violator is a broadcast station licensee or permittee, a cable television operator, or an applicant for any broadcast or cable television operator license, permit, certificate, or other instrument of authorization issued by the Commission, except as otherwise noted in this paragraph, the forfeiture penalty under this section shall not exceed \$27,500 for each violation or each day of a continuing

violation, except that the amount assessed for any continuing violation shall not exceed a total of \$275,000 for any single act or failure to act described in paragraph (a) of this section. There is no limit on forfeiture assessments for EEO violations by cable operators that occur after notification by the Commission of a potential violation. See section 634(f)(2) of the Communications Act.

(2) If the violator is a common carrier subject to the provisions of the Communications Act or an applicant for any common carrier license, permit, certificate, or other instrument of authorization issued by the Commission, the amount of any forfeiture penalty determined under this section shall not exceed \$110,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$1,100,000 for any single act or failure to act described in paragraph (a) of this section.

(3) In any case not covered in paragraphs (b)(1) or (b)(2) of this section, the amount of any forfeiture penalty determined under this section shall not exceed \$11,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of \$82,500 for any single act or failure to act described in paragraph (a) of this section.

NOTE: For information concerning notices of apparent liability and notices of opportunity for hearing, see paragraphs (e), (f), and (g) of this section.

(4) *Factors considered in determining the amount of the forfeiture penalty.* In determining the amount of the forfeiture penalty, the Commission or its designee will take into account the nature, circumstances, extent and gravity of the violations and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

Note to paragraph (b)(4):

GUIDELINES FOR ASSESSING FORFEITURES

The Commission and its staff may use these guidelines in particular cases. The Commission and its staff retain the discretion to issue a higher or lower forfeiture